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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,935	07/03/2006	York Alexander Beste	13111-00062	9884
23416 7590 12/17/2008 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899				
EXAMINER				
MANOHARAN, VIRGINIA				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
12/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,935

Applicant(s)

BESTE ET AL.

Examiner

Virginia Manoharan

Art Unit

1797

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-13 is/are allowed.
- 6) ☒ Claim(s) 6-9 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 6-9 and 14-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There are no proper antecedent basis for supports in the claims for the following recitations:

1). "the ionic liquid which is recovered from the work-up stage" (not previously recited in the base claims. Replacing "recovered" with —separated—obviates this rejection). Note claims 6 and 16.

2). "the bottom stream" recited in claims 14-15, lines 4 respectively.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thornton*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 14-15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 15-17 of copending Applications No. 10/566,931. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the instant claims is covered in the claims of the above co-pending applications and vice versa. The difference seen, i.e., the less than 500 mbar pressure; and the concentration recited in the above copending application, but not recited in the instant application is deemed of no patentable moment. One skilled in the art would appreciate that the primary determinative of overall efficiency of any distillation process, is to a great extent, dependent upon operating parameters e.g., temperatures, pressures and to some extent composition and concentrations. These parameters can be used, inter alia, as criteria of the degree of purity of the desired products. But pressure condition, for example, employed in a distillative separation is known to be largely empiric in nature, can vary widely dependent upon the precise composition of the impure liquid to be distilled and a variety of other factors which will be obvious and controllable by one skilled in the art concerned with the optimization of this parameter via routine chemical analysis and/or yield experimentation.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 14-15 are provisionally rejected on the ground of nonstatutory double patenting over claims 15-17 of copending Applications No. 10/566,931 respectively. This is a provisional double patenting rejection since the conflicting claims have not yet

been patented. The subject matter claimed in the instant application is fully disclosed in the referenced copending applications and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter as follows: a process for separating azeotropic or close-boiling mixtures by subjecting the mixtures to extractive rectification in which ionic salts which are liquid at temperatures below 200°C is used as entrainer, wherein a high-boiling bottom product is taken off from a column in vapor form via a side offtake, wherein the bottom stream from the column is passed to a work-up stage in which the ionic liquid present is submitted to vaporization or stripping in order for separation of high-boilers still present.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claims 10-13 are allowed.

Claims 6-9 and 14-19 are allowable over the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Manoharan whose telephone number is (571) 272-1450. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Virginia Manoharan/

Primary Examiner, Art Unit 1797